

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KARINE DUNCAN, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RONALD DUNCAN,

Respondent-Appellant.

UNPUBLISHED
February 16, 2006

No. 263480
Gogebic Circuit Court
Family Division
LC No. 01-200087-NA

In the Matter of ANNA DUNCAN, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RONALD DUNCAN,

Respondent-Appellant.

No. 263481
Gogebic Circuit Court
Family Division
LC No. 01-200088-NA

In the Matter of HAILEY DUNCAN, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

No. 263482
Gogebic Circuit Court

RONALD DUNCAN,

Respondent-Appellant.

Family Division

LC No. 01-200089-NA

Before: Meter, P.J., Whitbeck, C.J. and Schuette, J.

PER CURIAM.

In these consolidated appeals, respondent appeals as of right from an order terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

The trial court did not clearly err in finding that statutory grounds for termination had been established by clear and convincing evidence or in determining that the children's best interests did not preclude termination of respondent's parental rights. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The circumstances that initially brought the minor children into care in December 2001 included respondent's arrest for domestic violence for lifting his then two-year-old daughter off the floor by her hair and throwing her out the door of the family trailer as well as a pattern of domestic violence between respondent and the minor children's mother. In December 2002, the court returned the children to the care of respondent and their mother. The children were again removed from respondent's care in August 2004 because both respondent and the minor children's mother were incarcerated and had not provided suitable care for the children in their absence. At that time, it was also alleged that respondent was routinely drinking and was selling his prescribed medication and the prescribed medication of one of his minor children. The family home had been burglarized by individuals looking for drugs, and the children were fearful of both respondent's verbal and physical abuse and of living in their home because of respondent's drug activities in the home.

The initial condition of domestic violence had not been rectified during the trial court's involvement with this family. Respondent did not complete the required domestic violence course, and the minor children were afraid of him because he was verbally and physically abusive towards them, he had a diagnosis of explosive disorder, and his temper was a problem when he was drinking. Respondent drove while intoxicated with the minor children in the car, routinely called them names, and hit them and pulled their hair when angry and intoxicated. The other conditions that arose between the initial adjudication and the second adjudication in August 2004, namely respondent's substance abuse and maintenance of a drug house, also had not been rectified. At the time of the termination trial, respondent had been charged with possession of controlled substances and maintaining a drug house. The trial court, which had the unique opportunity to observe the testimony, found that respondent was not credible when he took no responsibility and blamed everyone around him.

In addition, the evidence showed that respondent tested positive for marijuana three times over a three-year period, was observed by the minor children to drink beer routinely, and was intoxicated when arrested in August 2004. Further, the minor children and others observed him

selling prescription drugs to friends and testified that respondent created a home environment that was unsafe for the children. Even though respondent's drug abuse continued, he did not seek treatment until the termination petition was filed. Because there was testimony that respondent had been involved with illegal activities over a long period of time, it was not reasonable to believe he would rectify these conditions within a reasonable time. The testimony of the therapist working with the minor children clearly showed the harm respondent had caused the minor children and the fact that returning the minor children to respondent would be harmful.

Respondent argues that he did not receive services to address his mental health and drug problems. The evidence showed that respondent had an initial assessment in 2002 and, based on his self-reporting, drug abuse was no longer an issue. He was not honest with the caseworker regarding his drinking, involvement in the sale of drugs, marijuana use, and prescription drug abuse throughout the period that the caseworker was involved. Even at trial, he continued to deny involvement in these activities. He voluntarily went to Community Mental Health only after the termination petition had been filed and received services for both depression and substance abuse. Petitioner was not required to provide services when it was not aware of a need because of respondent's deception. Nor did the trial court err when it concluded that respondent had a chronic history of criminal activity.

Affirmed.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette